IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CR NO.2585 of 2007

DATE OF DECISION: 14 .5.2007

Pankaj Kumar Dhingra ...Petitioner

VERSUS

Smt.Soni Devi & Others ...Respondents

CORAM

HON'BLE MR.JUSTICE PERMOD KOHLI

PRESENT: Mr.A.P.Bhandari, Advocate for petitioner

Permod Kohli,J. (Oral)

This revision petition is directed against the order dated 28.3.2007 passed by the Workmen Compensation Commissioner, Circle-4 at Faridabad, rejecting the application of the present petitioner for setting aside the ex parte proceedings dated 6.7.2006 and consequential ex-parte award dated 25.9.2006. From the impugned award, it appears that on an application filed

by the L.Rs of an employee of M/s City Motors, Sector 12, Faridabad under the Workmen's Compensation Act, claiming compensation on account of death of the workman, an award was passed on 25.9.2006, after initiating ex-parte proceedings against the employer on 6.7.2006. When the award was put to execution, an application for setting aside the ex-parte proceedings and the consequential award was filed on 6.3.2007. Objection was raised by the other side regarding the maintainability of the application firstly on account of limitation and secondly that the efficacious remedy of appeal is available under law. Vide the impugned order, application for setting aside ex-parte proceedings has been dismissed being barred by time.

It has been vehemently argued before me that the petitioner, namely, Pankaj Kumar Dhingra is not the proprietor of the Firm i.e. M/s City Motors and is only a Manager. It is accordingly urged that the award has been wrongly executed against the present petitioner. Learned counsel has further stated that he has no objection if the award is executed against the Firm. All these questions require enquiry and in exercise of power under Article 227 of the Constitution of India, this Court cannot hold an enquiry into the matter. The petitioner chose to prefer an application for setting aside the ex-parte award which has been dismissed and rightly so. I do not find any basis to interfere with the impugned order. However, it is open to the petitioner to place

necessary material before the Commissioner to establish that he is not the Proprietor and it is for the Commissioner to examine the issue in accordance with law.

In view of the above, I find no merit in the petition and the same is dismissed. No order as to costs.

(PERMOD KOHLI)
JUDGE

14 .5.2007
MFK

NOTE: Whether to be referred to the Reporter or not:YES/NO